

## REMARKS:

### **Status of claims and amendments**

Claims 1-7 are pending in the application. In the Office Action dated February 13, 2006, the Examiner rejected claims 1 and 5 under 35 U.S.C. 102(b) as being anticipated by Hillman et al., rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Hillman in view of Yoshida, and objected to claims 3, 4, 6, and 7 as being dependent upon a rejected base claim but containing allowable subject matter.

In this amendment, claim 1 has been amended to include the subject matter of original claim 2, and two limitations of original claim 3 which the Examiner commented on as distinguishing the cited prior art. Claim 4 has been amended to include the limitations of the original claim 1 and now is allowable as an independent claim. Claim 5 has been amended to include two limitations of original claim 6; that is, the same limitations as were added to claim 1 from claim 3. Claim 2 has been canceled. Claim 3 was amended to depend from amended claim 1 rather than canceled claim 2, and to delete the limitations added into claim 1. Claim 6 was amended to delete the limitations added into claim 5, from which it depends. No new matter was added.

### **Allowable subject matter**

In the Office Action dated February 13, 2006, the Examiner indicated that claims 3 and 6 were allowable because “the prior art does not teach or reasonably suggest in combination...that the pre-fill condition includes that the automatic transmission is in a first speed for the first time after the engine is restarted...[or] a difference between the fluid temperatures of before the engine is stopped and after the engine is restarted is greater than a predetermined difference” (page 4, under heading “allowable subject matter”).

These limitations have been added independent claims 1 and 5. While all of the limitations of claims 3 and 6, respectively, have not been moved forward to the independent claims, these specific limitations are not shown or suggested in the cited prior art. Applicant therefore submits that claims 1 and 5, as well as dependents thereon, are patentable over Hillman and Yoshida.

**Conclusions**

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060944-0149).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas D. Kohler", written over a horizontal line.

May 15, 2006

Date

Thomas D. Kohler (Reg. No. 32,797)

MORGAN, LEWIS & BOCKIUS LLP

One Market, Spear Street Tower

San Francisco, CA 94105

415.442.1000